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Letter dated 13 January 2002 from the Chargé d'affaires a.i. of the Permanent Mission of Iraq to the United Nations addressed to the Secretary-General

On instructions from my Government, I should like to transmit to you herewith a letter dated 11 January 2002 from Mr. Naji Sabri, Minister for Foreign Affairs of the Republic of Iraq, clarifying the position of Iraq on the contents of the letter dated 12 December 2001 from Sheikh Sabah Al-Ahmad Al-Jaber, Deputy Prime Minister and Minster for Foreign Affairs of the State of Kuwait, which is contained in document S/2001/1188.

I should be grateful if you would have this letter and its annex circulated as document of the Security Council.

(*Signed*) Abdul Munim **Al-Kadhe**
Chargé d'affaires a.i.

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Annex to the letter dated 13 January 2002 from the Chargé d'affaires a.i. of the Permanent Mission of Iraq to the United Nations addressed to the Secretary-General

I should like to refer to the letter dated 12 January 2002 from Sheikh Sabah Al-Ahmad Al-Jaber, Deputy Prime Minister and Minister for Foreign Affairs of the State of Kuwait (S/2001/1188) on the subject of missing persons and wish to clarify the position of Iraq on its contents, as follows:

1. The Minister for Foreign Affairs of the State of Kuwait criticizes what he calls Iraq's advancing of "proposals for the establishment of committees and so forth outside the framework of the United Nations" to resolve the missing persons issue. We had hoped that the State of Kuwait would welcome these initiatives on the part of Iraq as affirming Iraq's seriousness and sincere desire to achieve progress on this humanitarian issue, rather than the contrary. It should be mentioned that Iraq, in addition to its initiatives, has responded to mediation efforts by the League of Arab States (September 1991 and January 1993), the chairmanship of the Movement of Non-Aligned Countries (1994), the Government of the State of Qatar (February 1993), His Majesty the King of Morocco (October 1993), His Excellency the President of the Russian Federation, Mr. Boris Yeltsin (September 1994) and the Government of the Italian Republic (July 2001). All of these mediation efforts were made at the request of the State of Kuwait, and it is not comprehensible that the State of Kuwait should seek the mediation of regional organizations and States but that when Iraq responds to them it should withdraw and criticize this response.

2. The letter from the Minister for Foreign Affairs of the State of Kuwait mentions the existence of four mechanisms to which "Iraq can resort ... at any time for this purpose". This characterization seeks to give the impression that Iraq has so far not cooperated and erases the record of Iraq's cooperation with the International Committee of the Red Cross (ICRC) since 1991 and the continuation of this cooperation up to the present time, which has yielded some important results regarding discovery of the fate of many of the missing persons. The most recent example of that is that Iraq's cooperation made it possible to close the file of the Saudi pilot Mahmud Nazirah on 31 August 2001. With regard to the last-mentioned of these four mechanisms listed in the letter of the Kuwaiti Minister for Foreign Affairs, pertaining to the function of the so-called "high-level Coordinator", Iraq reaffirms that this function transfers the issue of missing persons from its natural place within the purview of ICRC and turns it into a political issue administered by the Security Council. It is therefore contrary to the principles of international humanitarian law, the Geneva Conventions of 1949 and the rules of operation of ICRC. It is also discriminatory and biased, and its scope is limited to the issue of missing persons who are Kuwaitis and third-country nationals, while it refuses to investigate the subject of Iraqi missing persons, whose number is double that of the missing persons who are Kuwaitis and third-country nationals. That is contrary to all humanitarian standards.

3. The Kuwaiti Minister says that the State of Kuwait is ready to permit ICRC to conduct a free and thorough search in Kuwaiti territory for the missing Iraqis whose presence is alleged by the Iraqi Government, on the understanding that it obtains in return "a clear undertaking from the Iraqi Government that it will provide Kuwait with full and precise information on the fate of the Kuwaitis".

This Kuwaiti proposal deals with a single issue using two standards. It asks one thing of Iraq and gives an undertaking that the State of Kuwait will do something else that is completely different. Iraq is ready to cooperate with Kuwait to agree on non-discriminatory steps under ICRC supervision to resolve the missing persons issue, regardless of their nationalities. The Government of Iraq wishes to affirm its serious and sincere desire for direct and sincere cooperation with the State of Kuwait, under ICRC supervision, as the best way of resolving this humanitarian issue.

The missing persons file calls for serious effort and cooperation by all parties where missing persons are located, under ICRC supervision. There exists experience in this area that may be emulated. What Iraq and Iran are doing in this humanitarian field, under ICRC supervision, affords an example of what may be achieved between the parties concerned without the intervention of outside parties that seek only to politicize the humanitarian issue, use it for specific political ends and prolong the state of tension between these parties.

(*Signed*) Naji **Sabri**
Minister for Foreign Affairs